



MRS Policy Unit

MRS Response to ICO: Data sharing code of practice

Background: About the Market Research Society (MRS) and the research market

1. The Market Research Society (MRS) is the world's largest research association with 5,000 members in over 50 countries. We have a diverse membership of individual researchers within agencies, independent consultancies, client-side organisations, the public sector and the academic community.
2. MRS promotes, develops, supports and regulates standards and innovation across market, opinion and social research and data analytics. MRS regulates research ethics and standards via its Code of Conduct. All individual members and Company Partners agree to regulatory compliance via the MRS Code of Conduct and its associated disciplinary and complaint mechanisms.
3. MRS adopted its first self-regulatory Code in 1954 and the latest fully revised version of the MRS Code of Conduct came into effect on 1 September 2014¹. It is currently being revised to reflect legal changes and ensure it reflects emerging technological developments. Supported by a suite of guidance documents the Code supports those engaged in market and social research in maintaining professional standards and reassures the general public that research is carried out in a professional and ethical manner. The MRS Code is technology and methodology neutral. It sets out overarching ethical principles supported by rules of conduct.
4. To support the ethical and legal requirements detailed in the MRS Code of conduct, there are a number of quality process standards for research. The first quality standard was introduced in 1976 and since then the research sector has adopted successive process standards to establish the appropriate technical and organisational standards for the handling of data in research. To ensure that the sector's process standards remain up to date with technological developments the research ISO standards have been expanded to encompass digital and data analytics techniques for research purposes.
5. There are currently three ISO standards for market, opinion and social research:

¹ The MRS code of conduct (2014) : <https://www.mrs.org.uk/pdf/mrs%20code%20of%20conduct%202014.pdf>

- i. ISO 20252: 2019: Market, opinion and social research, including insights and data analytics – vocabulary and service requirements.²
 - ii. ISO 26362: 2009: Access panels in market, opinion and social research – vocabulary and service requirements.³
 - iii. ISO 19731: 2017: Digital analytics and web analyses for purposes of market, opinion and social research – vocabulary and service requirements.⁴
6. Additionally, a broader range of organisations have signed up for the MRS Fair Data mark, which was established in 2012 to complement the self-regulatory arrangements under the Code. This data trust mark is designed for use by consumer-facing organisations, suppliers of research and data services, and public bodies. It enables consumers and citizens to make educated choices about their data and to identify organisations which they can safely interact with, knowing that their personal information is safe. For organisations that are accredited, it demonstrates a commitment to be ethical, transparent and responsible with data. Organisations sign up to twelve clear principles that are consumer focused, enabling ease of understanding. These twelve core principles of Fair Data work in tandem with the MRS Code of Conduct⁵. The scheme is supplemented by MRS's Fair Data advisory service which includes face-to-face, telephone and e-mail support plus events on best practice, best practice guidance and a bespoke audit accreditation process. Fair Data has been exported and adopted in Australia, the Netherlands and Singapore.

Our response

7. MRS welcomes the opportunity to respond to the ICO Data sharing code of practice consultation. Our response will focus on issues most relevant for research.

Comments on the ICO Data sharing Code of practice August 2019

8. Market, social and opinion research is the systematic gathering and interpretation of information about individuals or organisations using the statistical and analytical methods and techniques of the applied social sciences to gain insight or support decision making. Research is founded upon the willing co-operation of the public and

² Details about ISO 20252: 2019: <https://www.iso.org/standard/73671.html>

³ Details about ISO 26362: 2009: <https://www.iso.org/standard/43521.html>

⁴ Details about ISO 19731: 2017: <https://www.iso.org/standard/66187.html>

⁵ The Fair Data Principles: <https://www.fairdata.org.uk/principles/>

business organisations; it depends upon their confidence that it is conducted honestly, objectively, without unwelcome intrusion and with harm to participants.

9. Research activities are so rooted in ethical considerations that, traditionally researchers look at two major elements in relation to participants in their work: doing right, following the principles of justice, beneficence through assessing risk; and preventing harm, through protecting privacy, being honest, obtaining participant consent.
10. This is the background preparation and reasoning that underpins not only the definition and undertaking of the research, researchers as practitioners, but also the destination of research itself.
11. In market and social research, the greater likelihood of data sharing between joint data controllers and controller/s and processors for the same purposes is the key issue. GDPR and the Data Protection Act 2018 places specific obligations on Controllers and Processors, including when data sharing and transfer is being undertaken. It is therefore crucial to be sure that those undertaking the activities are correctly determining their role and responsibilities.
12. The correct identification of roles and responsibilities is particularly challenging in research, when depending on the type of research project being undertaken a client may be a third party, sole data controller or joint data controller in line with the level of autonomy and responsibility the client exercises over the personal data being collected. Similarly, a research supplier may be a processor, joint controller or sole controller. These are matters which we have raised separately with the ICO, and we would welcome more guidance from the ICO on the determination and identification of controllers, joint controllers and processors to ensure that responsibilities, particularly those relating to data subject rights, are being correctly undertaken by all parties involved in personal data sharing.
13. These are other points we encourage the ICO to explore and/or expand:
 - MRS welcomes the inclusion of the considerations for data sharing and children. Bearing in mind the accountability principle at the heart of the new data protection legislation, MRS would like to see the inclusion of special considerations regarding data sharing and vulnerable people, focussing on the key MRS Code construct of the avoidance of harm. MRS has added a section



on protecting vulnerable participants in the new MRS Code which will be published in the autumn, to tie onto the existing MRS guideline on researching vulnerable individuals.

- Data sharing in an urgent situation or in an emergency – we would welcome some further examples to illustrate scenarios where this might arise, including those in the private sector in addition to the examples already provided for the public sector. Whilst we appreciate the difficulty of providing detailed guidance about international data sharing, we would however welcome such information at the earliest opportunity as this remains one of the key areas of concern for MRS members and Company Partners as global research, by its nature, results in significant amounts of data sharing and transfer. We would particularly welcome detailed guidance on how to overcome the current GDPR data sharing concerns such as Privacy Shield legal validity (how shall the UK recreate a scenario that is already being disputed by its original creator?) and Standard Contractual Clauses reliability. Also, specific timelines for UK adequacy decisions adoption would be welcomed. . There is a risk of GDPR duplication on this topic, which would not be helpful for UK businesses which could end up having to comply with infinite number of slightly different regulations across Europe and the rest of the world.
- The guidance provides an overview of the data sharing codes across the public sector, including the Digital Economy Act codes and how the two interact. There are additional codes such the Research Code of Practice and Accreditation which sets out how access to access public authority data for research purposes. The relationship between all these data sharing Codes and the ICO data sharing code could be clearer; it would be helpful for example to have a separate ICO document reconciling all these data sharing codes into one, highlighting where there is consistency and if there is inconsistency ICO recommended or required approaches to ensure legal adherence.
- We would welcome further practical guidance for businesses on anonymization and pseudonymisation. While the code and relative published material is of important help, the practical implication still unclear.

Further information or clarification on this submission please contact [REDACTED]

[REDACTED] and [REDACTED]

[REDACTED] This submission is made on behalf of The Market Research Society, The Old Trading House, 15 Northburgh Street, London EC1V



OJR. The Market Research Society is a company limited by guarantee, registered in England No. 518685. 5 September 2019.